

**Before the
Federal Communication Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Notice of Inquiry Concerning a Review of the)	
Equal Access and Nondiscrimination)	CC Docket No. 02-39
Obligations Applicable to Local Exchange)	
Carriers)	

**Reply Comments Of:
Fred Williamson and Associates, Inc. ("FW&A")
On behalf of:**

**Chouteau Telephone Company, an Oklahoma ILEC
H&B Telephone Communications, Inc., a Kansas ILEC
Moundridge Telephone Company, Inc., a Kansas ILEC
Pine Telephone Company, Inc., an Oklahoma ILEC
Pioneer Telephone Association, Inc., a Kansas ILEC
Totah Telephone Company, Inc., a Kansas and Oklahoma ILEC
Twin Valley Telephone, Inc., a Kansas ILEC
(Collectively, "ILECs")**

BACKGROUND

In this proceeding the Commission seeks comment on the equal access and nondiscrimination obligations of the (BOCs) Bell Operating Companies (with and without section 271 authority), incumbent independent local exchange carriers (ILECs) and competitive LECs (CLECs). The Commission's goals are:

- To facilitate an environment that will be conducive to competition, deregulation and innovation.
- To establish a modern equal access and nondiscrimination regulatory regime that will benefit consumers.
- To harmonize the requirements of similarly situated carriers, as much as possible.

The objective of the equal access requirements is to insure that consumers are able to select the interexchange carrier of their choice on a one-plus dialed basis and to insure that the BOCs do not discriminate in favor of their affiliates or merger partners and provide inferior interconnection to competitive interexchange carriers.

REPLY COMMENTS

FW&A and the ILECs it represents believes that the Commission must revise its equal access and nondiscrimination rules to harmonize the requirements of all similarly situated carriers. Currently, CLECs and wireless carriers have no equal access and nondiscrimination obligations. These carriers are free to discriminate in favor of affiliated interexchange carriers or their merger partners. As the National Telecommunications Cooperative Association (NTCA) states on page 2 of its comments,

“Wireless carriers are not required to and do not offer equal access. As a result, wireless carriers have a distinct competitive advantage in that they can compete directly against rural ILECs without incurring the additional cost of providing equal access. This regulatory disparity is inconsistent with the Commission’s goal of minimizing disparities so that ‘no entity receives an unfair competitive advantage’...[and] is...contrary to the Commission’s goal ‘to establish a modern equal access and nondiscriminatory regulatory regime that will benefit consumers.’” The discriminatory advantage enjoyed by CLECs and wireless carriers causes end-users’ originating interexchange calls on the networks of CLECs and wireless carriers to be harmed because they cannot freely select the interexchange carrier of their choice on a one plus basis (and without an inferior connection). IXCs that cannot be selected by CLEC and wireless end-users are also harmed because they are placed at a competitive disadvantage vis-à-vis the preferred IXC selected by the CLEC or wireless carrier. In a similar vein, Local Exchange Carriers (LECs) that have expended the costs to provide equal access are harmed because they are placed at a competitive disadvantage because of the dissimilar requirements that they must face versus those faced by their competitors, the CLEC and wireless providers. This circumstance is at odds with a competitive market, hinders interexchange competition and results in anticompetitive discrimination by the CLEC or wireless carrier. Competition should benefit consumers and allow choice and hopefully lower prices. The Commission can promote competitive choice for users of interexchange services, irrespective of the technology used or the provider of service by revising its equal access rules to apply them equally to all local exchange service providers – LECs, BOCs, CLECs and wireless providers.

If the Commission does not decide to broadly revise its equal access rules to require CLECs and wireless providers to meet this consumer obligation, then at the very least, it should revise its universal service rules to require that all Eligible Telecommunications Carriers (ETCs) meet the equal access and nondiscrimination obligations. As NTCA states on page 2 of its comments, this requirement, "...fits squarely into the universal service criteria put forth in Section 254(c) of the Act and provides immediate and tangible benefits to the American public." It is grossly unfair, discriminatory and anticompetitive, both to incumbent LEC ETCs and consumers to allow CLEC and wireless ETCs to avoid this competitive requirement while at the same time allowing them to receive universal service funding for inferior service.

FW&A also agrees with NTCA that the Commission should suspend the portability provisions in the Interstate Common Line Support (ICLS) rules pending a decision on equal access. As NTCA observes on page 4 and 5 of its comments, the Commission, "...adopted 'competitive neutrality' as an additional principle to those stipulated in Section 254(b) of the Act. As the Commission explained in 1997, its policy was intended to 'ensure that no entity receives an unfair competitive advantage.'" However, the Commission itself, and a number of state commissions relying on Commission rules, have routinely ignored and violated this principle since it was adopted. For instance, some of the discriminatory provisions that currently exist are:

- The "...ICLS has no relationship to the cost of CTECs [eligible wireless providers]... and the Commission cannot determine whether they [the wireless providers] will receive support in excess of their total per line costs."¹
"...CTECs do not provide the same interstate access services to customers, use

the same facilities to provide the services, or incur the same costs for providing the services. [However CTECs]...will become eligible to receive ICLS support, not based on their own cost to provide IXCs access to their networks, but based on the rural ILEC's cost to provide access service.”²

- “...CTECs are currently not required to provide service throughout entire rural telephone company service areas. (NTCA comments at page 5).
- Equal access is not required to be provided by eligible CLECs and wireless providers.
- Eligible CLECs and wireless providers are not required to provide the same service quality as are the ILECs.

These differences in requirements for competitive eligible telecommunications carriers and those imposed on ILECs clearly violates the Commission's own principle. FW&A agrees with NTCA that, “The Commission's lopsided equal access [and other] regulations and the impending distribution of the identical support under the ICLS rules will continue to further aggravate the regulatory disparity between rural ILECs and wireless CETCs in the local exchange marketplace.”³ Portability of ICLS should be suspended until the Commission has completed its equal access review and has revised its rules to require that at a minimum, all carriers eligible to receive universal service support implement the same equal access requirements.

¹ NTCA comments, filed May 10, 2002, page 6, information in brackets added for clarity.

² Id., page 4.

Respectfully submitted on behalf of the ILECs by,

Frederic G. Williamson
President, Fred Williamson & Associates, Inc
2921 East 91st Street, Suite 200
Tulsa, OK. 74137-3355
Telephone: (918) 298-1618

³ Id., page 6.